

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
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Reallocation of Television Channels ) ET Docket 97-157  
60-69, the 746-806 MHz Band )

To: The Commission

REPLY COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following Reply to Comments filed in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding, FCC 97-245 (released July 10, 1997), 62 Fed. Reg. 41012 (July 31, 1997).

The Commission's proposed allocation of 24 MHz to public safety services, now mandated by statute, was strongly supported in the Comments of the National Public Safety Telecommunications Council (NPSTC), the Land Mobile Communications Council (LMCC), the National Telecommunications and Information Administration (NTIA), Motorola, Ericsson, the Personal Communications Industry Association (PCIA) the Cellular Telephone Industry Association (CTIA), and a wide variety of other parties. The following briefly addresses some of the other initial comments in the proceeding.

### Low Power TV Issues

A number of Low Power Television (LPTV) licensees and other broadcasting interests took issue with the proposed public safety allocation, though in most cases their comments ignore recent legislation codifying the Commission's proposal. For example, Community Broadcasters Association (CBA) urges the Commission to allocate spectrum to public safety on an incremental basis, 6 MHz at a time, and KSL Television recommends that the Commission conduct a market-by-market analysis of public safety needs before allocating spectrum. However, the final legislation passed by Congress and signed by the President requires that all 24 MHz must be allocated on a nationwide basis by December 31, 1997,<sup>1</sup> and rejected suggestions similar to those proposed by CBA and KSL.

Several comments from LPTV owners and associations also expressed concern about being forced out of channels 60-69 before new users of the 746-806 MHz band are ready to occupy the reallocated spectrum. However, APCO and others in the public safety community have repeatedly stated that there is no need for LPTV stations to cease operations until such time as public safety users are ready to initiate new operations. That is the essence of being a secondary operation.

### Public Safety Channel Allocations

The National Association of Broadcasters and the Association of Maximum Service Telecasters (NAB/MST) focus much of their attention on the Commission's

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<sup>1</sup> Of course, the extent to which that spectrum, once allocated, can be assigned and utilized is a different issue that APCO addressed in its initial comments.

proposal that broadcasters be allowed to obtain new permanent licenses in the 36 MHz of the 746-806 MHz band which is not being reallocated to public safety. The initial comments of APCO, NPSTC and others explained, however, that such broadcast use could impair future public safety use of adjacent frequencies. NAB/MST, in further support of their position, suggest that the Commission allocate the top four channels (66, 67, 68, and 69) to public safety to reduce the instances of potential adjacent channel interference. However, as discussed in greater detail by NPSTC, Motorola and others, the Commission's proposed allocation of channels 63, 64, 68, and 69, would be far better for public safety as it would provide for a critical 30 MHz channel separation necessary for efficient transmit and receive channels. Such a channel separation would also allow for installation of systems compatible with current 800 MHz public safety systems. In contrast, forcing public safety use into a single 24 MHz block would lead to inefficient spectrum utilization, and would impose unnecessary limitations on how that spectrum can be best utilized for critical public safety communications operations.<sup>2</sup>

#### Reducing Broadcast Use of Channels 60-69

NPSTC, Los Angeles County, the State of California, and others joined with APCO in expressing grave concern regarding the extent to which channels 60-69 are occupied by full power analog stations and DTV allotments. In many metropolitan areas, such broadcast operations will cause unacceptable delays in the ability to use the 24 MHz allocated to public safety in this proceeding. The Association of America's Public

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<sup>2</sup> Another important reason to maintain the Commission's proposed allocation of channels 63, 64, 68 and 69 is to avoid possible problems with domestic GPS operations which Aeronautical Radio suggest may occur with regard to channels 66 and 67.

Television Stations and the Public Broadcasting Service (APTS/PBS) offer some valuable suggestions regarding this problem, including a proposal that the 15 stations with DTV allotments in channels 60-69 be permitted to relinquish their DTV allotments and convert their "core" analog stations to DTV operations anytime prior to the end of the DTV transition period. APCO strongly supports such an approach, as it would facilitate much faster use of the 746-806 MHz band by public safety agencies in California (where nine of the channel 60-69 DTV allotments are located) and in the New York and Philadelphia regions (where five of the channel 60-69 DTV allotments are located). Indeed, the Commission should adopt additional incentives to further encourage stations to relinquish their channel 60-69 DTV allotments.

For similar reasons, APCO also supports another proposal from APTS/PBS to permit broadcasters with analog stations on channels 60-69 to move their analog operations to their "core" DTV allotments, and convert those channels to digital operations at some later date. This too could facilitate more rapid clearing of the 746-806 MHz band of broadcast operations, and permit earlier public safety operations.

While APTS/PBS have made a constructive proposal regarding DTV allotments in channels 60-69, the "solution" offered by KSLS, Inc. (licensee of KCSI, ch 18 in San Bernardino) is absurd and does not warrant any Commission consideration. It suggests that the solution to the Los Angeles problem is to move all current land mobile operations from UHF channels 16 and 20 in Los Angeles to channels 68 and 69, with the DTV channels now allotted 68 and 69 moving down to channels 14-20. Obviously this would do nothing other than force the extraordinarily disruptive and expensive relocation of

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current public safety systems on channels 16 and 20,<sup>3</sup> without any net gain in spectrum for public safety. The purpose of the 24 MHz is to provide spectrum relief for public safety, not to absorb public safety systems forced to relocate to accommodate broadcast operations.

### Frequency Coordination

The International Municipal Signal Association and the International Association of Fire Chiefs (IMSA/IAFC) support the proposed reallocation, but also go beyond the issues in the Notice to suggest that any certified frequency coordinator in the Public Safety Radio Services should be permitted to coordinate public safety frequencies in the 746-806 MHz band. APCO respectfully disagrees, while suggesting that this issue more properly belongs in the separate proceeding on service rules.

IMSA/IAFC itself notes that “the operational rules to be developed [for 746-806 MHz] must be compatible with those governing the existing public safety allocations in the 800 MHz band, as the new public safety band will be, in effect, an extension of these existing allocations.”<sup>4</sup> Thus, the 746-806 MHz public safety band should also be subject to the same frequency coordination process as other 800 MHz public safety bands. Those bands are coordinated by APCO, the only the frequency coordinator that represents all of public safety; that has experience in the regional planning process; that has local frequency advisors in each region; and that has developed expertise in coordinating large, shared 800

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<sup>3</sup> Along with UHF channel 14, channels 16 and 20 provide for the vast majority of public safety communications in the Los Angeles Basin.

<sup>4</sup> Comments of IMSA/IAFC at 9.

MHz public safety systems similar to those likely to be installed in the 746-806 MHz band. Allowing others to coordinate the 746-806 MHz band, while in theory creating competition, would undermine efficient, well-planned public safety use of the newly allocated spectrum.

#### Public Safety Eligibility

Compu-Dawn, Inc., a software developer and service provider, argues that the Commission must permit it and similar entities to obtain public safety licenses in the 746-806 MHz band. Compu-Dawn stakes its claim, however, on a misinterpretation of the recent legislation. "Public safety services" under the statute are those entities that have as their "sole or principal purpose" the protection of "safety of life, health or property." That alone would appear to exclude most for-profit entities. The only nongovernmental entities that are included as "public safety services" under the statute are those which not only have public safety as their "sole or principal purpose," but also are "authorized by a governmental entity." This appears to be intended to cover non-profit, non-governmental entities such as volunteer fire departments, disaster relief agencies and similar entities that are authorized by a governmental entity to provide public safety services. A commercial entity that enters into a business contract to provide certain communications services to a public safety agency does not thereby suddenly become "authorized by a governmental entity" such that it may now hold a public safety radio frequency license.

Services provided by Compu-Dawn and other entities can be an important element of an agency's public safety communications. However, such services should either be provided through frequencies licensed by (and under the ultimate control of) a public

safety agency or on non-public safety frequencies properly licensed to the service provider. To allow Compu-Dawn and others to obtain licenses in the 746-806 MHz band, or in any other public safety band, would seriously dilute the availability of scarce radio spectrum to public safety entities.


### CONCLUSION

Therefore, the Commission should move forward to allocate 24 MHz for public safety use as set forth above and in APCO's initial comments.

Respectfully submitted,

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